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12	UNITED STATES DISTRICT COURT	
13	DISTRICT OF NEVADA	
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15	CH2E NEVADA, LLC, a Nevada limited liability company,	Case No. 2:15-cv-00694-JCM-NJK
16	Plaintiffs,	JOINT MOTION TO AMEND THE
17	v.	JOINT DISCOVERY PLAN AND
18 19 20	LATIF MAHJOOB, an individual; AMERICAN ) COMBUSTION TECHNOLOGY INCORPORATED, a California corporation; DOES 1-X; and ROE COMPANIES XI-XX,	SCHEDULING ORDER (SECOND REQUESTED EXTENSION)
$\begin{bmatrix} 20 \\ 21 \end{bmatrix}$	inclusive,	
22	Defendants.	
	Plaintiff CH2E Nevada, LLC ("CH2E") and Defendants American Combustion	
23	Technology Incorporated ("ACTI") and Latif Mah	njoob ("Defendants" and, with CH2E, the
24	"Parties"), by and through counsel of record, hereby submit this Joint Motion to Amend the Joint	
25	Discovery Plan and Scheduling Order ("Joint Motion") pursuant to LR 6-1 and 26-4.	
26	I. STATEMENT OF FACTS	
27	CH2E filed a lawsuit against the Defendants on March 19, 2015. Soon thereafter, the	
28	Parties participated in a discovery and scheduling conference and submitted a proposed Joint	
	DMWEST #14103878 v4 1	

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Discovery Plan and Scheduling Order to the Court. The Court granted the Parties proposed discovery plan in its June 26, 2015 Joint Discovery Plan and Scheduling Order (the "June 26, 2015 Order") (ECF No. 20).

After the Parties engaged in several months of discovery, CH2E's lead counsel had an unexpected medical emergency. The Parties—having conferred and agreed that under the circumstances an extension of the discovery deadlines was acceptable to all Parties—filed a stipulation to amend the June 26, 2015 Order. The Court granted the Parties' proposed amendments to the discovery plan in its December 21, 2015 Stipulation to Amend the Joint Discovery Plan and Scheduling Order (the "Order") (ECF No. 35).

Since that time, the Parties have engaged in settlement discussions. As part of those discussions, CH2E allowed ACTI personnel to physically inspect the recycling equipment at issue in this case, a time-consuming process that required the Parties' full attention. ACTI has completed its inspection of the recycling equipment, but a settlement agreement has yet to be reached. Settlement discussions are ongoing.

The discovery cutoff is currently June 28, 2016. In connection with the preparation of a joint status report to the Court, which is being filed contemporaneously herewith, the Parties have conferred and agree that in light of the continuing prospect of settlement, and the need to conduct additional depositions if settlement cannot be reached, it is in the interest of all Parties to file this Motion requesting the Court to extend the discovery deadline contained in Section 7(c) of the Order. The Parties therefore respectfully request a forty-five (45) day extension of the Parties' fact discovery cutoff date to and including August 12, 2016.

## II. **LOCAL RULE 26-4 REQUIREMENTS**

## **Discovery Completed** A.

Plaintiff CH2E has served Defendants with the following items:

- Initial Disclosures Pursuant to F.R.C.P. 26(a)(1); (i)
- (ii) First Set of Requests for Production of Documents; and
- (iii) Second Set of Requests for Production of Documents.

In addition, CH2E has produced over 142,000 pages of documents in response to

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DMWEST #14103878 v4

Defendants' requests for production of documents, and continues to produce responsive documents on a rolling basis.

Plaintiff has also deposed Defendant Latif Mahjoob.

Defendants have served CH2E with the following items:

- (i) Initial Disclosures Pursuant to F.R.C.P. 26(a)(1);
- (ii) First Set of Requests for Production of Documents;
- (iii) First Set of Interrogatories;
- (iv) Second Set of Requests for Production of Documents;
- (v) Supplement to Initial Disclosures;
- (vi) Second Set of Interrogatories; and
- (vii) Third Set of Requests for Production of Documents.

In addition, ACTI has produced approximately 600 pages of documents in response to Plaintiff's request for production of documents.

## B. <u>Discovery to be Completed</u>

If a settlement agreement cannot be reached, the Parties anticipate that each side will take additional depositions. Plaintiff intends to take a Rule 30(b)(6) deposition of ACTI. In addition, Plaintiff wishes to conduct depositions of additional fact witnesses, including two individuals that Defendants recently identified in a supplement to Defendants' initial disclosures.

Defendants intend to take a Rule 30(b)(6) deposition of CH2E. In addition, Defendants wish to depose multiple representatives of CH2E, including two fact witnesses who reside in California and may not be present at trial.

Finally, the Parties expect that they will engage in expert discovery following the close of fact discovery.

## C. <u>Reason for Extending Discovery Plan Deadlines</u>

Over the past several months, the Parties have diligently engaged in settlement discussions, which included Defendants' inspection of the recycling equipment that is subject to Plaintiff's claims. Settlement discussions have not yet been successful but are continuing. If the settlement discussions are ultimately unsuccessful, the Parties will need additional time for

DMWEST #14103878 v4

depositions. 1 2 Proposed Schedule for Completing All Remaining Discovery D. 3 By this Motion, the parties seek to amend Section 7(c) of the Order to extend the fact discovery cutoff date by forty-five (45) days as follows: 4 7. Discovery Plan. 5 Fact Discovery Cutoff: August 12, 2016 6 c. 7 The proposed amendment should not affect the Parties' ability to comply with the 8 remaining discovery deadlines set forth in Section 7(d) - (h) of the Order. 9 III. **CONCLUSION** For the above-stated reasons, the Parties respectfully request that this Court enter an 10 Order approving this Joint Motion to Amend the Joint Discovery Plan and Scheduling Order 11 12 using the new deadline noted above. Dated: April 29, 2016. 13 14 BALLARD SPAHR LLP KAWAHITO & WESTRICK LLP /s/ Roger P. Thomasch /s/ James K. Kawahito Abran E. Vigil James K. Kawahito (pro hac vice) 16 Nevada Bar No. 7548 10474 Sana Monica Blvd. Ste 405 100 North City Parkway, Suite 1750 Los Angeles, CA 90025 17 Las Vegas, Nevada 89106-4617 18 Attorneys for Defendants Latif Roger P. Thomasch (*pro hac vice*) Gregory P. Szewczyk (pro hac vice) Mahjoob and American 19 1225 17th Street, Suite 2300 Combustion Technologies, Inc. Denver, Colorado 80202-5596 20 Attorneys for Plaintiff CH2E Nevada, LLC 21 22 IT IS SO ORDERED: 23 UNITED STATES MAGISTRATE JUDGE 24 25 26 May 2, 2016 27 DATED: 28

DMWEST #14103878 v4

1	CERTIFICATE OF SERVICE	
2	I hereby certify that on the 29th day of April 2016, and pursuant to Fed. R. Civ. P. 5(b),	
3	true and correct copy of the foregoing JOINT MOTION TO AMEND THE JOINT	
4	DISCOVERY PLAN AND SCHEDULING ORDER was electronically filed and served	
5	through the Court's CM/ECF system, which will send a notice of electronic filing to the	
6	following:	
7	James K. Kawahito  Alison Rose  1990 South Bundy Drive  Los Angeles, CA 9002  Hector Carbajal  Nevada Bar No. 6247  Matthew C. Wolf  Nevada Bar No. 10801	
9	Carbajal & McNutt LLP Telephone: (702) 384-1170 Facsimile: (702) 384-5529	
11	Emails: hjc@cmlawnv.com mcw@cmlawnv.com	
12	/s/ CM Rowe	
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DMWEST #14103878 v4 5